IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

:PRESENT:
THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 6459 of 2003

Between:

Mullangi China Sathiraju S/o. Sriramulu
R/o.Palathodu Village , Mandapeta Mandal E.G.Dist.

..... PETITIONER

AND

1 Deity Sri Ramalingeswara Swamy vari Temple Rep by its Executive Officer
Palathodu , Mandapeta Mandal, E.G.Dist.
2 Yelati Venkata raju S/o.Satyam
R/o.Palathodu , Mandapeta(m) E.G.Dist
R2 is impleaded as per Court Order Dt: 22-10-03 in WPMP: 26596/03.

..... RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus directing the action of the respondent herein in trying to induct the alleged auction purchasers without following the Statutory provisions as illegal, arbitrary and Capricious and pass such other order or orders.

The petition coming on for hearing, upon perusing the petition and the affidavit filed in support there of and the High Court order dated 18/06/2004 and made herein and upon hearing the arguments of Mr. RAVI KUMAR, Advocate for the Petitioner and of Smt N.Indrani, Standing Counsel for Endoments, Andhra Area for Respondent

No.1and of Sri P.Venkateshwarlu, Advocate for Respondent No.2 the Court made the following

ORDER:

The present writ petition is filed complaining the action of the respondent in trying to induct the alleged auction purchasers into possession of the land without following the statutory provisions as illegal and arbitrary.

The petitioner is a cultivating tenant of an extent of Ac.3.50 cents of the respondent Devastanam deity since 1975. The Maktha payable is 67 1/3 kata bags of paddy per year. The land is double crop-wet land. It is stated that the petitioner has been paying maktha regularly without any default. When the respondent tried to induct some third parties into the land, the petitioner filed A.T.C.No. 26 of 2002 on the file of Junior Civil Judge-cum-Special Officer under Tenancy Act, Alamuru for declaration of tenancy rights and obtained temporary injunction in I.A. No. 801 of 2002 restraining the respondent from interfering with his peaceful possession. The respondent Devasthanam carried the matter in appeal vide A.T.A. No. 87 of 2002 on the file of Appellate Authority under the A.P. Tenancy Act- cum-District Judge, Rajahmundry, which was dismissed. In view of the same, the respondent shall not dispossess the petitioner.

Opposing the writ petition, the first respondent filed a counter-affidavit stating that Devasthanam had convened a meeting with cultivating tenants on 24.06.2002 and requested for enhancement of the Maktha up to 34 bags per acre as the lands are double crop wet lands. The cultivating tenants rejected the request of the Chairman and informed that they are not going to cultivate the subject lands. In view of the same, a resolution was passed on 26.06.2002 to conduct public auction. Accordingly, public auction was conducted by giving wide publicity, in which the second respondent and one A.Rama Rao, who were declared as highest bidders deposited 1/3rd of the auction amount on 06-07-2002 and 08.07.2002 and land was handed over to the highest bidders on 8-7-2002 and 09.07.2002, respectively in the presence of police people and village elders, whereas injunction was granted on 19.09.2002. Aggrieved by the dismissal of the ATC, the respondent Devasthanam carried the matter in revision before this Court in C.R.P. No. 244 of 2003 which was disposed of observing that the Tenancy Act is not applicable to the endowment lands and the ATC filed by the petitioner is not maintainable. Since the date of auction, the second respondent is in possession of the property.

Second respondent also filed a counter-affidavit stating

that he deposited the balance muktha amount on 26.04.2003 and for the year 2003 he raised the crops.

The statements made by the respondents in their counter-affidavit have not been controverted by filing any reply. Since the land, which was leased out to the petitioner is Ac.3.50 cents of double crop wet land the petitioner has not pleaded that he is a small farmer entitled to the benefits under Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987. In view of the specific averment that the petitioner voluntarily abandoned tenancy rights and the land which was cultivated by the petitioner as a cultivating tenant was put in public auction and when the highest bidder has been inducted into possession, no further relief can be granted to the petitioner.

This writ petition is accordingly dismissed. No costs.

// ASSISTANT REGISTRAR //

// TRUE COPY//

SECTION OFFICER

Copy to:

1 Deity Sri Ramalingeswara Swamy vari Temple Rep by its Executive Officer Palathodu , Mandapeta Mandal, E.G.Dist.

2 Yelati VenkatarajuS/o.Satyam R/o.Palathodu, Mandapeta(m) E.G.Dist

3. 2 CC copies Standing counsel for Endowments.Andhra Area
4. 2 CD copies
kvrm/kmr

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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DATED 18TH DAY OF JUNE, 2004